



HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: MAIL STOP: ISSUE FEE, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, ON THE DATE INDICATED BELOW.

BY: Jack Fromm

DATE: September 14, 2004

PATENT
BOX ISSUE FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Patent Application of	:	
	Stephan Prestel	:	
		:	Group Art Unit 3731
Conf. No.:	8933	:	
		:	
Appln. No.:	10/039,506	:	Allowed: June 28, 2004
		:	
Filed:	January 4, 2003	:	
		:	
For:	SURGICAL INSTRUMENTS	:	Attorney Docket No.
		:	No. 7535-651US
		:	(RW 616 US)

TRANSMITTAL LETTER

Although it is Applicants' opinion that the claims filed by way of amendment are substantially embraced in the statement of invention or in the claims originally filed, Applicant's herewith file a Supplemental Declaration for precautionary purposes under 37 CFR 1.67.

Respectfully submitted,

STEPHAN PRESTAL

September 14, 2004
Date

By:

William W. Schwarze

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WWS/TMF
Enclosure



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BY:

John Fromm

DATE:

September 14, 2004

**PATENT
MAIL STOP ISSUE FEE**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Patent Application of Stephan Prestel	: Allowed: June 28, 2004 : From Group Art Unit 3731 :
Conf No.:	8933	: :
Appln. No.:	10/039,506	: Examiner: Bradford C. Pantuck :
Filed:	January 4, 2002	: : Attorney Docket : No. 7535-651US
For:	SURGICAL INSTRUMENT	: (RW 616 US)

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

This is in response to the Notice of Allowability dated June 28, 2004 in the above application, in which the Examiner has set forth his reasons for allowance in paragraph 2 at page 2 of the Notice of Allowability.

It is submitted that the Examiner's Statement of Reasons for Allowance is incomplete, and therefore objectionable, for at least two reasons. First, with respect to both independent claims 6 and 8, the Examiner has referred to certain elements of the claims which are allegedly not disclosed in the prior art. However, the Examiner has not addressed the remaining elements of the claims or the relationship of the non-disclosed elements to the remaining elements of the claims.

Second, while the Examiner has stated what he believes is not disclosed in the prior art of record, so that the claims are novel, the Examiner has not addressed the issue of non-obviousness. That is, the Examiner has not made any statement why the claims are believed to be non-obvious over the prior art of record.

Application No. 10/039,506
Reply to Office Action of December 19, 2003

It is requested that these comments be placed in the application file, so that they will be part of the patent's record.

Respectfully submitted,

STEPHAN PRESTEL

September 13, 2004
(Date)

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